



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-024]

Certain Polyethylene Terephthalate Resin from the People's Republic of China: Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) determines that imports of certain polyethylene terephthalate resin (PET resin) from the People's Republic of China (PRC) are being sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The final weighted-average dumping margins of sales at LTFV are listed in the "Final Determination Margins" section, infra.

DATES: *Effective Date*: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Steve Bezirgianian or Tyler Weinhold, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1131 or (202) 482-1121, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 15, 2015, the Department of Commerce (Department) published in the Federal Register the preliminary determination in the LTFV investigation of PET resin from the

PRC.¹ For a description of the events that have occurred since the Preliminary Determination, see the Issue and Decision Memorandum, which is hereby adopted by this notice.² The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

As explained in the memorandum from the Acting Assistant Secretary for Enforcement & Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government because of snowstorm "Jonas." All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the final determination of this investigation is now March 4, 2016.

Period of Investigation

The period of investigation (POI) is July 1, 2014, through December 31, 2014.

Scope of the Investigation

¹ See Certain Polyethylene Terephthalate Resin From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 80 FR 62024 (October 15, 2015) (Preliminary Determination). We later published a correction to that notice, which corrected errors in the weighted-average margin chart appearing in the Preliminary Determination (see Certain Polyethylene Terephthalate Resin From the People's Republic of China: Notice of Correction to Preliminary Affirmative Less Than Fair Value Determination, 80 FR 69643 (November 10, 2015)).

² See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Issues and Decision Memorandum for the Final Determination of the Antidumping Duty Investigation of Certain Polyethylene Terephthalate Resin from the People's Republic of China," dated concurrently with this notice (Issues and Decision Memorandum).

The merchandise covered by this investigation is certain PET resin from the PRC. For a full description of the scope of the investigation, see Appendix I to this notice.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum accompanying this notice. A list of the issues raised and to which the Department responded is attached to this notice as Appendix II.

Changes to the Margin Calculations Since the Preliminary Determination

Based on the Department's analysis of the comments received and our findings at verification, we made certain changes to our margin calculations. For a discussion of these changes, see the Issues and Decision Memorandum.

Combination Rates

In the Initiation Notice,³ the Department stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.⁴

Separate Rate

Under section 735(c)(5)(A) of the Act, the rate for all other companies that have not been individually examined is normally an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero and de minimis margins, and any margins determined entirely on the basis of facts available. In this final determination, the Department has calculated rates

³ See Certain Polyethylene Terephthalate Resin From Canada, the People's Republic of China, India, and the Sultanate of Oman: Initiation of Less-Than-Fair-Value Investigations, 80 FR 18376 (April 6, 2015) (Initiation Notice).

⁴ See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries," (April 5, 2005) (Policy Bulletin 05.1), available on the Department's Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

for both mandatory respondents that are not zero, de minimis, or based entirely on facts available. Therefore, the Department has assigned to the companies that have not been individually examined but have demonstrated their eligibility for a separate rate a margin of 114.47 percent, which is the weighted-average of Xingyu's and FEIS's margins using publicly-ranged quantities for their sales of subject merchandise.⁵

PRC-Wide Rate

In our Preliminary Determination, we found that certain PRC exporters and/or producers of the merchandise under consideration during the POI did not respond to the Department's quantity and value questionnaire. As a result, we preliminarily determined to calculate the PRC-wide rate on the basis of adverse facts available (AFA). For the final determination, we have determined to use, as the AFA rate applied to the PRC-wide entity, 126.58 percent, the highest CONNUM-specific dumping margin calculated in this final determination. Consistent with our practice, the Department selected Xingyu's highest CONNUM-specific margin, as AFA, because this rate is higher than the other rates in this investigation and therefore, sufficiently adverse to serve the purposes of facts available.⁶ Furthermore, there is no need to corroborate the selected margin because it is based on information submitted by Xingyu in the course of this investigation, i.e., it is not secondary information.⁷

Final Determination Margins

⁵ See Memorandum to the File entitled "Final Determination of the Investigation of Certain Polyethylene Terephthalate Resin from the People's Republic of China: Calculation of the Final Margin for Separate Rate Companies," dated concurrently with this notice. With two respondents, we normally calculate: (A) a weighted-average of the dumping margins calculated for the mandatory respondents; (B) a simple average of the dumping margins calculated for the mandatory respondents; and (C) a weighted-average of the dumping margins calculated for the mandatory respondents using each company's publicly-ranged values for the merchandise under consideration. We compare (B) and (C) to (A) and select the rate closest to (A) as the most appropriate rate for all other companies. See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part, 75 FR 53661, 53663 (September 1, 2010).

⁶ See Issues and Decision Memorandum for a detailed discussion.

⁷ See 19 CFR 351.308(c) and (d) and section 776(c) of the Act.

The Department determines that the final weighted-average dumping margins, and cash deposit rates reflecting adjustments to the weighted-average dumping margins to account for export subsidies and estimated domestic subsidy pass-through (see below for additional explanation), are as follows:

Exporter	Producer	Weighted-Average Margin (percent)	Cash Deposit Rate (percent)
Far Eastern Industries (Shanghai) Ltd. or Oriental Industries (Suzhou) Limited ⁸	Far Eastern Industries (Shanghai) Ltd. or Oriental Industries (Suzhou) Limited	104.98	99.29
Jiangyin Xingyu New Material Co., Ltd. or Jiangsu Xingye Plastic Co., Ltd. or Jiangyin Xingjia Plastic Co., Ltd. or Jiangyin Xingtai New Material Co., Ltd. or Jiangsu Xingye Polytech Co., Ltd. ⁹	Jiangyin Xingyu New Material Co., Ltd. or Jiangsu Xingye Plastic Co., Ltd. or Jiangyin Xingjia Plastic Co., Ltd. or Jiangyin Xingtai New Material Co., Ltd. or Jiangsu Xingye Polytech Co., Ltd.	118.32	114.25
Dragon Special Resin (XIAMEN) Co., Ltd.	Dragon Special Resin (XIAMEN) Co., Ltd.	114.47	100.90
Hainan Yisheng Petrochemical Co., Ltd.	Hainan Yisheng Petrochemical Co., Ltd.	114.47	105.75
Shanghai Hengyi Polyester Fiber Co., Ltd.	Shanghai Hengyi Polyester Fiber Co., Ltd.	114.47	105.75
Zhejiang Wankai New Materials Co., Ltd.	Zhejiang Wankai New Materials Co., Ltd.	114.47	105.75
PRC-Wide Entity		126.58	125.75

Disclosure

⁸ In the Preliminary Determination, we collapsed Oriental Industries (Suzhou) Limited with FEIS. No parties challenged those findings, and we are continuing to collapse those firms in this final determination.

⁹ In the Preliminary Determination, we collapsed four firms (Jiangsu Xingye Plastic Co., Ltd., Jiangyin Xingjia Plastic Co., Ltd., Jiangyin Xingtai New Material Co., Ltd., and Jiangsu Xingye Polytech Co., Ltd.) with Xingyu. No parties challenged those findings, and we are continuing to so collapse those firms in this final determination.

We intend to disclose to parties in this proceeding the calculations performed for this final determination within five days of the date of public announcement of our final determination, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of PET resin from the PRC, which were entered, or withdrawn from warehouse, for consumption on or after October 15, 2015, the date of publication in the Federal Register of the affirmative Preliminary Determination. Further, pursuant to section 735(c)(1)(B)(ii) of the Act, the Department will instruct CBP to require a cash deposit¹⁰ equal to the weighted-average amount by which the normal value exceeds U.S. price, adjusted where appropriate for export subsidies and estimated domestic subsidy pass-through,¹¹ as follows: (1) for the exporter/producer combination listed in the table above, the cash deposit rate will be equal to the dumping margin which the Department determined in this final determination; (2) for all combinations of PRC exporters/producers of merchandise under consideration which have not received their own separate rate above, the cash deposit rate will be equal to the dumping margin established for the PRC-wide entity; and (3) for all non-PRC exporters of merchandise under consideration which have not received their own separate rate above, the cash deposit rate will be equal to the cash deposit rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter. The suspension of liquidation instructions will remain in effect until further notice.

Consistent with the Preliminary Determination and as noted above, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct

¹⁰ See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations, 76 FR 61042 (October 3, 2011).

¹¹ See sections 772(c)(1)(C) and 777A(f) of the Act, respectively.

CBP to require a cash deposit less the amount of the countervailing duty determined to constitute any export subsidies or domestic subsidy pass through. Therefore, in the event that countervailing duty order is issued and suspension of liquidation is resumed in the companion countervailing duty investigation on PET resin from the PRC, the Department will instruct CBP to require cash deposits adjusted by the amount of export subsidies and domestic subsidy pass through, as appropriate. These adjustments are reflected in the final column of the rate chart, above.¹² Until such suspension of liquidation is resumed in the companion countervailing duty investigation, and so long as suspension of liquidation continues under this antidumping duty investigation, the cash deposit rates for this antidumping duty investigation will be the rates identified in the weighted-average margin column in the rate chart, above.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of our final determination. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will determine within 45 days whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that such injury exists, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Return or Destruction of Proprietary Information

¹² For details regarding the calculation of these adjustments, see the March 4, 2016, memorandum to the File entitled “Certain Polyethylene Terephthalate Resin from the People’s Republic of China: Final Double Remedies Calculation Memorandum.”

This notice will serve as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Dated: March 4, 2016.

Appendix I- Scope of the Investigation

The merchandise covered by this investigation is polyethylene terephthalate (PET) resin having an intrinsic viscosity of at least 0.70, but not more than 0.88, deciliters per gram. The scope includes blends of virgin PET resin and recycled PET resin containing 50 percent or more virgin PET resin content by weight, provided such blends meet the intrinsic viscosity requirements above. The scope includes all PET resin meeting the above specifications regardless of additives introduced in the manufacturing process. The merchandise subject to this investigation is properly classified under subheading 3907.60.00.30 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Appendix II – Issues and Decision Memorandum

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Recommendation

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